

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Abad <i>et al.</i>	Confirmation No.:	5409
Appl. No.:	10/032,717	Group Art Unit:	1638
Filed:	October 23, 2001	Examiner:	Kubelik, Anne R.
For:	GENES ENCODING NOVEL BACILLUS THURINGIENSIS PROTEINS WITH PESTICIDAL ACTIVITY AGAINST COLEOPTERANS		

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**LETTER OF GOOD FAITH AND CANDOR REGARDING
PATENT TERM ADJUSTMENT**

Dear Sir:

In our review of the calculated patent term adjustment provided on the Patent Application Information Retrieval (PAIR) system for the above-referenced patent application, we note that there is a potential error in the calculated adjustments due to USPTO (PTO) delay. In accordance with 37 § C.F.R. 1.703(b)(4), the patent term was extended by 602 days for the entire length of a successful appeal process, beginning with the filing of a Notice of Appeal on August 11, 2006 and ending on April 3, 2008, the date the decision on the appeal was rendered. Within this 602-day term, the PAIR calculation also granted an additional 85 days for a delay by the Examiner in responding to Applicant's amendment filed August 11, 2006 beyond the required four months for reply, in accordance with 37 C.F.R. § 1.703(a). Applicants note the two periods of USPTO delay (the 85-day delay and 602-day delay) are overlapping. Given the provision of 37 C.F.R. § 1.703(f) that adjustments due to USPTO delay will be the sum of the periods of delay to the extent these periods are not overlapping, Applicants request review of this 85-day period of USPTO delay to determine if the calculated patent term adjustment provided on the PAIR system is correct.

Applicants are submitting this letter to meet any responsibility they may have to bring this difference in calculation to the attention of the United States Patent and Trademark Office.

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Please charge any additional fees required by this paper or credit any overpayment to
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Respectfully submitted,

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ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT &
TRADEMARK OFFICE ON June 2, 2009.

LEGAL01/13114741v1